DEPARTMENT OF JUSTICE
SB 139: Requiring Photographing, Fingerprinting upon Conviction of Certain Misdemeanors

Background

Montana law requires fingerprinting for all felony offenses. While the law **allows** fingerprinting for misdemeanor offenses, it does not **require** it. Most misdemeanor offenders are fingerprinted when booked, but there is no uniform reporting across the state.

As a result, misdemeanor offenses are routinely not entered into the state repository and criminal justice agencies may be unaware of the existence of a prior misdemeanor offense. For example, an offender commits a first offense of partner/family member assault in one county, then moves to a different county and is convicted of another partner/family member assault. Because the first offense was never entered into the state repository, the second county is unaware of the prior conviction and handles the subsequent offense as if it were the offender's first.

Repeated Offenses, Stiffer Penalties

Certain Montana offenses – like domestic violence, stalking, violating an order of protection and DUI – are cumulative, with progressively stiffer penalties. Upon repeat convictions, they become felony offenses. For example, a third or subsequent conviction for partner/family member assault, or a fourth or subsequent conviction for driving under the influence, is a felony.

However, without a record of prior convictions in the state repository, offenses that should be prosecuted as felonies are treated as misdemeanors.

Proposed Amendments

SB 139 would amend 44-5-206 MCA to require law enforcement to photograph and fingerprint offenders convicted of these types of cumulative offenses.

Criminal justice agencies would be aware of prior convictions and offenders would be appropriately prosecuted and punished. The amendments would also ensure that offenders who are required to register as sexual or violent offenders are properly identified.